
Illinois Commerce Commission On its Own Motion)	
)	
Investigation Concerning Illinois Bell Telephone)	Docket No. 01-0662
Company's Compliance with Section 271 of the)	
Telecommunications Act of 1996)	

PHASE II AFFIDAVIT OF NANCY B. WEBER

ON BEHALF OF

ILLINOIS COMMERCE COMMISSION

DATED: February 21, 2003

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I, Nancy B. Weber, being of lawful age and duly sworn upon my oath, do hereby
depose and state as follows:

I. PROFESSIONAL EXPERIENCE AND EDUCATION

1. My name is Nancy B. Weber, and my business address is 160 North LaSalle, Suite C-800, Chicago Illinois, 60601. I am currently employed by the Illinois Commerce Commission ("Commission") in the Telecommunications Division as the Project Manager for the independent third party review of SBC Illinois' Operation Support Systems ("OSS") pursuant to Condition 29 of the SBC/Ameritech Merger Order, Docket 98-0555. As part of the third party review, BearingPoint, Inc. (formerly known as KPMG Consulting, Inc.), is evaluating SBC Illinois' CLEC facing operations and business processes as well as a thorough review of all of SBC Illinois' 150 performance measurements.
2. I graduated from Bucknell University, Lewisburg, PA, with a Bachelor of Science degree in Computer Science and Engineering in 1992. I also received a minor in Mathematics.
3. Prior to working for the Commission I was employed by Andersen Consulting, now known as Accenture, as a Manager in its Telecommunications Division. During my time with Andersen Consulting, I gained extensive experience in all phases of software development. I developed both functional business requirements and technical specifications, planned application architectures, designed relational databases, developed mainframe and client server

applications, wrote technical reference guides, conducted user training sections, directed project teams, wrote business proposals and fostered client relationships. I worked in both the telecommunications and healthcare industries. For more than three years of my time with Andersen Consulting, I worked on various engagements involving SBC Illinois.

II. PURPOSE AND SCOPE OF AFFIDAVIT

4. In this affidavit, I will discuss four main items. First, I comment upon SBC Illinois' Phase I compliance with checklist item (ii) as it applies to line loss notifications. Second, I provide an overview of the independent third party review being conducted by BearingPoint and the results provided in its December 20, 2002 Operational Report. Specifically, I identify areas of SBC Illinois' OSS in which BearingPoint has reported that deficiencies still exist, and I make specific recommendations regarding these deficiencies. Third, I demonstrate that the performance measurement data provided by SBC Illinois is not reliable and should not be used as evidence of SBC Illinois' compliance with the Section 271 checklist, nor as a public interest component, nor an assurance that the company will not backslide in its performance once granted Section 271 approval by the Federal Communications Commission ("FCC"). I support my position regarding SBC Illinois' data reliability issues with evidence from the BearingPoint and Ernst & Young performance measurement evaluations. Finally, I analyze the three months of performance measurement data submitted by SBC Illinois for its preordering and ordering measures in this proceeding, to determine whether or not the results support SBC Illinois' claim

that it complies with checklist items (ii) and (iv), notwithstanding the fact that I believe the data itself is unreliable and the data should not be used for evaluation purposes until proven reliable. I also make recommendations regarding the specific actions SBC Illinois should be required to undertake to provide proper assurance to this Commission that its performance measurement data can be trusted.

5. Throughout my affidavit, I respond to SBC Illinois affiants Mark Cottrell and James Ehr, and I have reviewed and am familiar with both of Mr. Cottrell's affidavits and Mr. Ehr's affidavit dated January 17, 2003.

III. PHASE I COMPLAINT: LINE LOSS NOTIFICATIONS

6. On February 6, 2003 the Commission approved the Phase I Interim Order on Investigation in Docket No. 01-0662 ("Phase I Order"). Below, I provide my opinion regarding SBC Illinois' compliance with the Phase I Order. Specifically I address SBC Illinois' compliance with respect to line loss notices as they relate to checklist item (ii).
7. The Phase I Order states, in relevant part, that:

It is generally agreed by all parties that the Commission's final review of line loss performance should come in Phase II. The CLEC's testimony indicates that there have been persistent and significant problems, which may not be resolved at this time, and indicates further, that the issue of an adequate LLN is material. For its part, Staff maintains, that AI has not yet satisfactorily proven that the LLN problem is fully

resolved and it attaches a number of remedial actions to be put into effect at this juncture. Staff's recommendations are reasonable and Ameritech's actual implementation of those remedial actions (found on pages 5-8 of Appendix A attached to Staff's Reply Brief), will be given substantial weight when the Commission makes its final analysis of this matter in Phase II.

Phase I Order, ¶694

8. In Staff's Phase I Reply Brief, Staff recommended SBC Illinois take specific action with respect to the operational aspects of line loss notices as well as its line loss performance measurement, MI 13. In general, SBC Illinois has complied with the majority of Staff's Phase I recommendations all of which the Commission found to be reasonable. However, I am still not convinced that further line loss notification operational problems will not occur, given the nature of the problems that have been seen to date. Mr. Cottrell, in his Phase I Compliance Affidavit indicates that the company released Accessible Letters CLECAM02-122 and CLECAM02-123 on November 12 and 13, 2002 communicating the occurrence of a new line loss notification incident. Cottrell Phase I Compliance Affidavit, ¶8. In addition, during the hearings on February 13, 2003 Mr. Cottrell indicated there were additional line loss notification problems in the month of December 2002 and January 2003. February 13,

2003 hearing Tr. at 3809, 3851-3852. Mr. Cottrell states that the SBC cross-functional team will be maintained at least until June 20, 2003. Cottrell Phase I Compliance Affidavit, ¶13. However, inasmuch as it appears there are still intermittent issues arising with either the generation and or delivery of line loss notifications, and that these issues adversely affect CLECs and their end users, I continue to recommend that SBC Illinois' cross-functional team remain in place to review line loss notifications until SBC Illinois provides six months of line loss notices without uncovering any new problems and without any of the known problems re-emerging. Since, there have been intermittent line loss notification problems even after SBC Illinois indicated all issues were addressed, I am of the opinion that the Commission cannot be assured that line loss notification problems will not recur, and that new ones will not arise, unless it monitors SBC Illinois' performance in this area over a period of time.

9. While the operational and procedural changes SBC Illinois has put in place for line loss notices appear to have reduced the number of incidents with line loss notices, it does not change the fact that anytime there is a problem providing line loss notices to CLECs, SBC Illinois is providing discriminatory treatment to CLECs. This is because SBC Illinois' billing systems do not rely upon these line loss notices to stop billing its own end customers, but CLECs billing systems do rely upon line loss notices for this purpose¹. Therefore, issues related to line loss notifications should not be taken lightly, and as the Commission stated in

¹ IL Docket, 02-0160.

its Phase I Order the “issue of an adequate line loss notification is material[.]” Phase I Order, ¶¶694.

10. In its Phase I Order, the Commission found that Staff’s suggested remedial actions were reasonable, and therefore it directed SBC Illinois to modify the calculation, business rules and exclusions associated with performance measure MI 13. In Phase I, the Commission found that the company specifically needed to alter MI 13 to accurately capture how long it takes SBC Illinois to send a loss notification and to reflect the fact that MI 13 does not include loss notifications that are never sent. Phase I Order, ¶¶521. Specifically, the Commission directed SBC Illinois to implement, within 45 days of issuance of the Phase I Order (which would be March 23, 2003), the modifications Staff recommended that SBC Illinois make with respect to performance measure MI 13. Phase I Order, ¶¶522-525, 528.
11. Mr. Cottrell states that SBC Illinois worked with industry participants through the performance measure six-month review process to make revisions to the line loss notification performance measure (MI 13) and that the parties reached consensus regarding the appropriate modifications. Cottrell Affidavit, ¶¶12. Mr. Ehr states that a second measure of line loss notification timeliness, assessing the average delay for any line loss notices that were not sent within the new standard, was also created; MI 13.1. Ehr Affidavit, ¶¶30.
12. While I agree that the collaborative reached consensus on the definitional changes to performance measure MI 13, and that these changes generally meet the requirements of the *Phase I Order*, SBC Illinois has not agreed to

Staff's recommendation that performance measure MI 13 be assigned a medium weight for remedy plan purposes, which is required by the Phase I Order. Accordingly, SBC cannot be said to be in full compliance with the Phase I Order in this regard.

13. In its Order in Docket No. 01-0120, the Commission ordered that remedied performance measures reflect a weighting based on importance, such as impact on end users. Order, Docket No. 01-0120 at 47 (Ameritech's Position), 48). Staff, in Phase I of this proceeding, recommended that MI 13 be given a medium weighting, since it primarily protects the CLECs reputation. Staff argued that a medium weighting is equitable given that the performance measure is not a sub-measure, and missing or inaccurate line loss notices affect both the end user and the CLECs reputation. The benefit of making MI 13 a "medium" remedied measure is that it will encourage SBC Illinois to work towards preventing any backsliding on this performance measure and therefore on delivering accurate and timely line loss notices to CLECs.
14. SBC Illinois has agreed to include MI 13 as part of its remedy plan, but has only agreed to a low weighting level. Due to the fact that this Commission, in its Order in Docket No. 02-0160, found SBC Illinois' practices with respect to line loss notifications to be discriminatory and anti-competitive, I believe the Commission should require SBC Illinois to make performance measure MI 13 a remedied performance measure of medium weight as recommended and found reasonable by this Commission in the Phase I Order.

15. Further, the changes to performance measure MI 13 and the new implementation of performance measure MI 13.1 are not planned to be put in place by SBC Illinois until March 2003 data which would be in April 2003.² As explained in the Final Order of Docket 02-0160 and in Phase I of this proceeding, performance measure MI 13, which is currently being reported, does not accurately capture SBC Illinois' performance in its delivery of line loss notifications. Therefore, Staff and the Commission still lack an accurate way of monitoring SBC Illinois' generation and delivery of line loss notifications to CLECs until the changes to MI 13 and the new MI 13.1, as agreed to by the six-month review collaborative, are implemented³. In addition, MI 13 will not become a remedied performance measure until the changes to the measure are implemented⁴. Therefore, I recommend that the Commission direct SBC Illinois to make the necessary changes to its line loss notifications performance measures prior to this Commission providing a positive Section 271 recommendation to the FCC.
16. This Commission should find in its Phase II Order that SBC Illinois' cross functional team must remain in place and continue to review line loss notifications until SBC Illinois provides six months of line loss notices without uncovering any new problems and without any of the existing problems re-emerging. In addition, SBC Illinois should be required make performance measure MI 13 a remedied measure of medium weight and all changes to

² February 13, 2003 Tr. at 3798.

³ February 11, 2003 Tr. at 2954.

⁴ Id.

performance measure MI 13 and MI 13.1 should be implemented by SBC Illinois prior to this Commission making a positive Section 271 recommendation to the FCC.

17. If SBC Illinois were to implement these changes within 45 days of the Phase I Order (which would be March 23, 2003) as found reasonable by this Commission, SBC Illinois would be able to respond with its intention to rectify the Phase I compliance items that it has failed to address in its rebuttal filing currently scheduled for March 3, 2002.

IV. CHECKLIST ITEM (II): ACCESS TO OSS

A. INDEPENDENT THIRD PARTY REVIEW OF SBC ILLINOIS' OPERATIONAL SUPPORT SYSTEMS

18. The independent third party review of SBC Illinois' operational support systems by BearingPoint is being conducted pursuant to Condition 29 of the SBC/Ameritech Merger Order in Docket No. 98-0555 ("Merger Order"). The scope of the third party review was set based upon the parameters outlined in Condition 29 of the *Merger Order*. The Commission required SBC Illinois to work in collaboration with CLECs and Commission Staff in determining the set of changes SBC Illinois would make to its OSS. The independent third party review was designed in Illinois to specifically determine whether or not SBC Illinois is meeting the specific OSS requirements of the Merger Order and as further defined by the parties given that a record is being created for consultation with the FCC.

19. The FCC considers OSS testing to provide an objective means by which to evaluate a Bell Operating company's ("BOC") OSS readiness, and may otherwise strengthen an application where competitors challenge the BOC's evidence. The FCC also notes that the persuasiveness of a third-party review is dependent upon the qualifications, experience and independence of the third party and the conditions and scope of the review itself⁵. If third party testing has not been conducted for a given OSS function, then commercial usage is used as evidence to prove whether or not the OSS functions are operationally ready⁶. Therefore, the results from BearingPoint's independent third party review are also being presented in this proceeding for consideration.
20. The Master Test Plan issued by BearingPoint on March 30, 2001 (and as later amended on May 2, 2002) describes the approach it used for testing SBC Illinois' OSS systems, interfaces and business processes. Ordering, provisioning, billing, maintenance and repair, account management and change management are the key business functions that are included in BearingPoint's review. The test was designed to be representative of the types of real-world business situations that are present in Illinois. The test, however, could not be completely exhaustive in scope and, therefore, not all possible permutations and combinations of features and functions of products were evaluated. The operational portion of BearingPoint's review was performed

⁵ *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket # 97-137, FCC 97-298 ¶216 (rel. Aug. 19, 1997) ("Ameritech Michigan Order").

⁶ *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket 99-925, FCC 99-404, ¶189 (rel. Dec. 22, 1999) ("Bell Atlantic New York Order:").

through two different types of tests; process and procedure reviews (PPR) and transaction validation and verification (TVV) tests. The PPR and TVV tests were further separated into the four functional areas, Pre-Order and Order, Provisioning, Maintenance and Repair, and Billing. A fifth test aspect named Relationship Management and Infrastructure, was also included as part of the PPR tests. To administer its TVV tests, BearingPoint established a test CLEC ("Test CLEC"). BearingPoint set up the operational infrastructure of a CLEC so that it could submit and receive actual transactions to/from SBC Illinois in the same manner as any CLEC, the Test CLEC. This was done such that BearingPoint could simulate the CLEC experience of conducting business with SBC Illinois while maintaining a controlled environment in which to administer its test.

B. BEARINGPOINT DECEMBER 20, 2003 OPERATIONAL REPORT

21. BearingPoint's operational evaluation began in May 2001, and focuses upon 510 separate evaluation criteria. Each evaluation criterion was analyzed and reported on individually, and assigned one of four results: Satisfied, Not Satisfied, Indeterminate, or Not Applicable. The results are assigned to each evaluation criteria based upon BearingPoint's examination of the norms, benchmarks, standards and guidelines assigned to each evaluation criteria. The results are defined as follows:

Satisfied: The norm, benchmark, standard, and/or guideline was met or exceeded;

Not Satisfied: The norm, benchmark, standard, and/or guideline was not met;

Indeterminate: Insufficient evidence has been collected to determine a result;

Not Applicable: The evaluation criterion could not be evaluated.

On December 20, 2003, as directed by the Commission, BearingPoint issued a Draft OSS Evaluation Project: Operational Report (“Operational Report”) that reported its findings as of the date the report was produced⁷.

22. BearingPoint’s high level test results, as presented in the Executive Summary of its Operational Report, by test domain are as follows (Operational Report at 10):

Table 1 – BearingPoint Operational Test Results

Test Family	Number of Evaluation Criteria				
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	Total
Pre-Ordering/Ordering	87	14	0	0	101
Provisioning	76	1	5	0	82
Billing	94	1	0	5	100
Maintenance and Repair	79	2	0	0	78
Relationship Management	131	0	2	7	140
TOTAL	464	18	7	12	501

23. The operational test was conducted using a “test until pass” approach. Under this approach, if BearingPoint encountered an issue or problem during the test of SBC Illinois’ OSS, BearingPoint informed SBC Illinois by documenting the issue publicly in either an Observation Report or an Exception Report. If SBC Illinois made a change to a process, system or document in response to an

⁷ As admitted by mutual agreement of the parties during the February 5, 2003 hearing.

Exception Report or Observation Report, BearingPoint would conduct a retest as appropriate. Accordingly, it follows that many of the evaluation criteria that currently have a Not Satisfied result have been tested more than once, and the company has been unable to satisfy the evaluation criteria.

24. In its Operational Report, BearingPoint indicates that not all evaluation criteria are of equal weight or value and therefore it discourages attempts to determine an overall “score” based on the percentage of evaluation criteria satisfied or not satisfied⁸. In light of this, I have looked specifically at each of the evaluation criteria determined to be Not Satisfied to evaluate its impact on CLECs and competition and its applicability to Section 271 checklist item (ii).

C. CHECKLIST (ii): AREAS OF OSS DEFICIENCY

25. The second 271 competitive checklist item requires that carriers provide nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Act⁹. The FCC has further interpreted this to include access to OSS and other UNEs, UNE combinations and the pricing of UNEs¹⁰.
26. The typical OSS functions evaluated by states and the FCC in a Section 271 review include pre-ordering, ordering, provisioning, maintenance and repair, billing and change management. The FCC has stated that access to OSS

⁸ Operational Report at 8.

⁹ 47 U.S.C. § 271(c)(2)(B)(ii).

¹⁰ *Joint Application by SBC Communications Inc. et al. to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket 01-194, FCC 01-338, at 8-40 (rel. Nov. 16, 2001) (“ARK/MO 271 Order”).

functions fall squarely within an incumbent LEC's duty under Section 251(c)(3). Section 251(c)(3) requires an incumbent LEC to provide unbundled network elements under terms and conditions that are nondiscriminatory and just and reasonable.¹¹

27. Below, I address OSS deficiencies raised by BearingPoint in its Operational Report as they relate to checklist item (ii). Before I begin my analysis, however, I note that, merely because BearingPoint's test did not reveal a deficiency, it does not mean that SBC's OSS is free of problems, deficiencies, or other impediments to proper functioning. BearingPoint's review of each evaluation criteria was conducted during defined time periods, and the scope of BearingPoint's evaluation did not cover all aspects of SBC Illinois' OSS or all business processes that support its OSS.¹²
28. There are several aspects of SBC Illinois' OSS that received Not Satisfied evaluations in BearingPoint's Operational Report, and that, accordingly, this Commission should require SBC Illinois to address prior to the Commission providing a positive Section 271 recommendation to the FCC. At a minimum, SBC Illinois should address the deficiencies noted in the evaluation criteria discussed below, and when SBC Illinois believes it has addressed these deficiencies, it should be required to have an independent third party evaluate SBC's compliance to certify that the evaluation criteria previously found to be

¹¹ Bell Atlantic New York Order, 15 FCC Rcd at 3990, para. 84.

¹² For example as BearingPoint responded during the February 5, 2003 hearing it did not perform any volume or functional testing on the LSOG5 version of the Company's EDI or CORBA application to application interfaces nor did it perform any actual tests of the Company's bill reconciliation process (BearingPoint response to Staff hearing questions BE/Staff 7, 8).

Not Satisfied are in fact Satisfied¹³. Specifically, SBC Illinois should be required to address evaluation criteria TVV1-4, TVV1-26, TVV1-28, TVV4-27, TVV7-14, and PPR13-4 within the context of this proceeding, as this Commission has already directed the company to address when the Commission approved Staff's January 6, 2003 (Updated on January 13, 2003) Staff Report during the January 14, 2003 Commission bench session. Staff Ex. 31.0, Schedule 31.03.

Ordering: Timeliness of Service Order Completion Responses (TVV1-28)

29. Service order completion responses ("SOCs") are the notifications SBC Illinois sends to CLECs to indicate that the work the CLEC requested (new account to be provisioned, feature to be added to an account, disconnect of an account, etc.) has been completed. Timely service order completion responses are important to CLECs, because the CLEC needs this information so that it can communicate completion of work to its end user customer. If SBC Illinois does not provide timely SOC's, CLECs have to expend additional time and resources to investigate whether or not the products and services they have ordered were provisioned on the committed due date.
30. In its evaluation of ordering criteria TVV1-28, BearingPoint found that SBC Illinois did not provide timely completion notices for the evaluation period. For the test, BearingPoint used a benchmark of 99 percent of completion notices

¹³ In its January 14, 2003 directive, the Commission stated that BearingPoint should conduct the verification activities once SBC Illinois addressed the deficiencies noted in the Operational Report. Staff Ex. 32.0, Schedule 32.03.

received within 1 business day of the completion date of the service order. This benchmark is analogous to the Commission approved standard for performance measure 7.1, Percent Mechanized Completion notices returned within one day of work completion. BearingPoint first publicly reported this issue to the company in Exception Report 18 on November 29, 2001. Subsequent to the initial public notice, SBC Illinois twice indicated that the problem had been addressed and asked BearingPoint to conduct a retest of the evaluation criteria. The company failed both retests, which were conducted in the April 2002 and the October 2002 time periods¹⁴.

31. During the latest performance measure six-month review collaborative, the parties mutually agreed to alter the standard and definition for performance measure 7.1. The parties agreed to change the benchmark standard to 97% from 99%, and further agreed that Sundays and holidays should be considered non-processing days from a business rule perspective. While there has been agreement of these business rule changes, they have not been officially approved by the Commission and therefore, they are not in effect. Regardless of this fact, the company still fails to provide timely service order completion notices when the modified standards or rules for PM 7.1 are applied to BearingPoint's evaluation. For example, when Sundays and holidays are considered to be non-processing days, 1032 out of 1114 (92.6 percent) mechanized CSRs were received by the Test CLEC from SBC Illinois' systems

¹⁴ Operational Report at 574-575.

within 1-day time frame, which is well below the modified benchmark of 97%.
Staff Ex. 31.0, Schedule 31.02¹⁵.

32. Mr. Cottrell states that SBC Illinois' commercial performance demonstrates that its service order completion notifications are supplied in a timely manner, but that, per the recent Commission direction on January 14, 2003, SBC Illinois will work further to resolve the issue. Cottrell Affidavit, ¶21. During the hearings in this proceeding SBC Illinois indicated that all corrective actions related to this issue would be implemented no later than May 31, 2003¹⁶. I disagree with Mr. Cottrell's statement that SBC Illinois' commercial performance demonstrates that its service order completion notifications are supplied in a timely manner. The three months of performance measurement data submitted by SBC Illinois in this proceeding actually shows that SBC Illinois' commercial performance for performance measure 7.1 failed to meet the defined benchmark for any of the three months for 3 of the 4 sub-measures reported. Ehr Affidavit, Attachment A.
33. Timely SOC notices are vital to a CLECs' ability to provide good service to their customers. Delay in providing SOC notices may cause CLECs to expend additional time and resources to follow up on the status of orders that should not be necessary, if SBC's OSS is functioning adequately. I recommend that the Commission should continue to require that SBC Illinois address issues related to the delivery of timely service order completion notices, as approved

¹⁵ Staff Ex. 31.0, Schedule 31.02. Exception 18v3 Additional Information issued by BearingPoint on January 29, 2003.

¹⁶ February 13, 2003 hearing, Cottrell response on follow-up.

by this Commission on January 14, 2003. Further, I recommend that the Commission direct SBC Illinois to obtain independent third-party verification that the issues have been addressed after SBC Illinois completes its planned changes. I understand that SBC Illinois anticipates such planned changes will be completed no later than May 31, 2003¹⁷.

Provisioning: Accuracy of Updates to Customer Service Record (TVV4-27)

34. Customer service records provide a CLEC with the ability to verify which specific services have been provisioned on customer accounts/lines, and further enable CLECs to place service/repair orders using “normal” procedures. Without accurate CSR updates, CLECs expend additional resources and time to investigate whether the products and services ordered were actually provisioned to their end user customers accounts, or to check the status of a customer’s account, prior to issuing a trouble ticket for maintenance and repair work.
35. In the TVV4-27 provisioning test, BearingPoint evaluated the accuracy of CSRs, and determined that SBC Illinois’ post-order CSRs did not accurately reflect what was ordered to be provisioning on the pre-order CSRs.¹⁸ For its test, BearingPoint used a benchmark of 95% accuracy when comparing pre-activity CSRs and local service requests (LSRs) to post-activity CSRs. Additionally, BearingPoint sought to ensure that the CSR reflected all of the

¹⁷ Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

¹⁸ BearingPoint Operational Report at 708.

correct feature/service information within five business days of SBC providing the service order completion (SOC) notice to the CLEC. BearingPoint produced Exception Report 128 on June 20, 2002, which confirms that SBC Illinois failed to update Test CLEC CSRs accurately. BearingPoint reported a CSR update accuracy rate of only 86%. On August 6, 2002 SBC Illinois indicated the issues with CSR accuracy were resolved and that BearingPoint could conduct a retest. BearingPoint conducted a retest of this evaluation criterion from August through October 2002 and determined that 92.8% of CSRs were updated accurately, which is still below the 95% accuracy benchmark established.

36. In paragraph 58 of his Phase II affidavit, Mr. Cottrell states that the differences noted by BearingPoint are not material in their degree of impact on commercial orders, but that SBC Illinois recognizes the benefits in improving accuracy for all customer records and, consistent with the Commission's decision on January 14, 2003, it will work further to resolve these issues. During the hearings in this proceeding SBC Illinois indicated that all corrective actions related to the accuracy of CSRs would be implemented no later than June 30, 2003¹⁹.
37. In my opinion, CSR accuracy is very important and, without accurate CSRs, SBC Illinois treats CLECs in a discriminatory manner, because the CLEC does not own the facilities to be able to determine what features/services are on a line or account like SBC Illinois can for its own end users. In addition, if CSRs

¹⁹ Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

are not updated accurately, CLEC requests to reported trouble on an account investigated by SBC Illinois may be rejected unnecessarily. Therefore, consistent with the Commission's directive on January 14, 2003, I recommend that the Commission direct SBC Illinois to address, in the course of this Section 271 proceeding, deficiencies in this area. I further recommend that SBC Illinois be required to obtain verification from an independent third party that the issues have been addressed after SBC Illinois completes its work to address these issues.

Maintenance & Repair: Accuracy of Close Out Coding on End-to-end Trouble Faults (TVV7-14)

38. A CLEC enters a trouble ticket with SBC Illinois when one of its end users is experiencing problems with its services or facilities. When an SBC Illinois technician completes the repair work, the technician assigns a close out code to the trouble ticket, indicating the action required to correct or fix the problem. As Mr. Cottrell stated in his Phase II Affidavit, Cottrell Affidavit, ¶69, trouble ticket closeout codes are used for billing and reporting purposes, and if close out codes are not assigned correctly, SBC may bill CLECs incorrectly for work done²⁰. In addition, from a performance measure reporting standpoint, incidents of trouble caused by CLECs or CLEC facilities are excluded from SBC Illinois' performance measurement results. Therefore, if trouble tickets

²⁰ Repair charges are based on both service call charges and time and material (T&M) charges. If dispatch of a technician is required the service call charge is \$71 in addition to the T&M charges, which in Illinois are \$25 per ¼ hour. February 13, 2003 hearing, Cottrell response on follow-up to Staff question 6.

are incorrectly attributed to CLECs, then those troubles tickets will not be reflected in the applicable performance measurement reports.

39. In the TVV7-14 end-to-end trouble report processing test, BearingPoint evaluated the accuracy of closeout codes applied to special circuit end-to-end trouble reports. BearingPoint found that special circuit end-to-end trouble reports did not contain closeout codes that accurately defined the trouble condition that was repaired by the technician. For this test, BearingPoint used a benchmark of 95% of end-to-end trouble reports containing closeout codes that accurately defined the cause of trouble. BearingPoint issued Exception 131 on June 27, 2002, indicating that only 91.7% of the special circuit troubles were reported accurately by SBC Illinois during the course of BearingPoint's test. On July 22, 2002 SBC Illinois requested that a retest be conducted and BearingPoint determined that SBC's performance had in fact declined; only 87.5% of the close out codes were accurately reported during the course of the retest.²¹

40. In paragraph 71 of his Phase II affidavit, Mr. Cottrell states that SBC Illinois has implemented initiatives to further improve the coding of trouble reports and believes significant improvements have been made. He further states that SBC Illinois recognizes the Commission's interest in the accuracy of maintenance and repair close out codes, and consistent with the Commission's January 14, 2003 directive, SBC Illinois will work to further resolve the issue. During the hearings in this proceeding, SBC Illinois indicated that all corrective

²¹ BearingPoint Operational Report at 763.

actions related to this issue would be implemented and it would be prepared for a retest to begin no later than July 2003²².

41. I believe the accuracy of close out codes is an important issue. If SBC Illinois does not apply the correct close out code when completing a trouble ticket, CLECs may be charged an improper amount for the work done. Therefore, consistent with the Commission's direction on January 14, 2003, I recommend that the Commission direct SBC Illinois in the course of this proceeding to address its deficiencies with respect to the accuracy of special circuit close out codes, and have SBC Illinois obtain independent third-party verification that the issues have been addressed after it completes its work to address the issues.

Other OSS Deficiencies (TTV1-4, TVV1-26, PPR13-4)

42. TVV1-4, TVV1-26 and PPR13-4 are the other three operational evaluation criteria for which SBC Illinois received a Not Satisfied result in the Operational Report. These evaluation criteria are as follows:

Ordering: SBC Ameritech provides required order functionality (TVV1-4);

Ordering: SBC Illinois provides timely mechanized firm order confirmations (FOC) in response to electronically submitted orders (TVV1-26);

Billing: The bill production process includes reasonable checks to catch errors not susceptible to pre-determine balancing procedures (PPR13-4).

Either, SBC Illinois is currently working to address these three items or BearingPoint is currently in the process of retesting them. Staff is hopeful that these evaluation criterions, TVV1-4, TVV1-26 and PPR13-4, will be

²² Staff Ex. 32.0, Schedule 32.01. February 13, 2003 hearing, Cottrell response on follow-up.

successfully verified prior to the conclusion of Phase II. If for any reason these evaluation criteria have not been determined to be "Satisfied" prior to the conclusion of Phase II, then I recommend that any positive Section 271 recommendation by this Commission be contingent upon a commitment from SBC Illinois that it will address these deficiencies and that it will submit verification by an independent third party that these deficiencies have been addressed by August 2003. This recommendation is consistent with the Commission's January 14, 2003 directive regarding the BearingPoint Reports. Staff Ex. 32.0, Schedule 32.03. SBC Illinois should respond to these operational deficiencies and the progress of any undergoing remedial actions in its rebuttal filing currently scheduled for March 3, 2003.

Summary of Checklist Item (ii): Areas of OSS Deficiency

43. Consistent with the Commission's direction on January 14, 2003, SBC Illinois should commit to address its areas of deficiencies with respect to timeliness of service order completion (SOC) responses (BearingPoint evaluation criteria TVV1-28), accuracy of updates to customer service records or CSRs (BearingPoint evaluation criteria TVV4-27), and accuracy of close out coding on end-to-end trouble faults (BearingPoint evaluation criteria TVV7-14) within the context of this proceeding. This Commission's positive Section 271 recommendation to the FCC should be contingent upon a commitment from the company that it will address these three operational deficiencies by July 2003 and that an independent third party provides verification that these deficiencies have been addressed by November 2003.

44. Consistent with the Commission's directive on January 14, 2003, SBC Illinois should address its areas of deficiency with respect to its order functionality (BearingPoint evaluation criteria TVV1-4), timeliness of firm order confirmations (FOCs) (BearingPoint evaluation criteria TVV1-26) and its internal bill accuracy controls (BearingPoint evaluation criteria PPR13-4). SBC Illinois should submit BearingPoint's verification that these deficiencies have been addressed in its rebuttal filing on March 3, 2003. If these three evaluation criteria have not been determined to be "Satisfied" prior to the company's rebuttal filing on March 3, 2003, then the Commission should make its positive Section 271 recommendation contingent upon a commitment from SBC Illinois that it will address these deficiencies and have them verified by an independent third party no later than August 2003.
45. SBC Illinois should respond with its intention to rectify these 6 operational deficiencies and the progress of any undergoing remedial actions regarding these deficiencies in its rebuttal filing currently scheduled for March 3, 2003.

V. SBC ILLINOIS' PERFORMANCE MEASUREMENT DATA IS NOT RELIABLE AND SHOULD NOT BE USED AS EVIDENCE OF COMPLIANCE

46. As previously noted, the FCC has stated that performance measurement data reported by BOCs provide valuable evidence regarding a BOC's compliance or non-compliance with individual checklist items²³. Therefore, in support of its Section 271 application, SBC Illinois has submitted three consecutive months

²³ *Application of Verizon New York Inc. et al. for Authorization To Provide In-Region, InterLATA Services In Connecticut*, CC Docket 01-100, FCC –01-208, ¶7 (rel. July 20, 2001)(“Verizon Connecticut Order”).

(September, October, November 2002) of commercial performance data results in this proceeding (Ehr, Attachment A) in an attempt to demonstrate that the level of service SBC Illinois provides to its wholesale customers or Illinois CLECs is nondiscriminatory. Ehr Affidavit, ¶6.

47. As a threshold matter, the FCC has said that the reliability of reported data is critical: the performance measures must generate results that are meaningful, accurate, and reproducible. In particular the FCC states that the raw data underlying a performance measurement must be stored in a secure, stable, and auditable file if a remedy plan is to be accorded significant weight.²⁴
48. Mr. Ehr states that the performance measurement data and standards being discussed in this proceeding are the result of many years of development and discussions between SBC Illinois and CLECs. Ehr Affidavit, ¶13. SBC Illinois began reporting performance measurement data in Illinois in May of 2000²⁵. SBC Illinois' performance measurements and its processes and controls to collect and report the data are not new, as had been the case in many of the other states in which the Section 271 review process has taken place. SBC Illinois has had more than 2 ½ years to develop, deploy and perfect its performance measurements and reporting system; notwithstanding this extended period, far too many inaccuracies and problems remain for the Commission to have confidence in the current and future accuracy of the performance measure data SBC Illinois reports.

²⁴ TX 271 Order ¶428.

²⁵ February 11, 2003 Tr. at 3038-3039.

49. Version 1.8 of the performance measurement business rules are in effect, and SBC Illinois is required to report performance measurement data in a manner consistent with these business rules. The performance measurement data filed in this proceeding by SBC Illinois for September, October and November 2002 must reflect the performance measurements documented in SBC Illinois' tariff (Ill. C.C. No. 20, Part 2, Section 11.E). Both BearingPoint and Ernst & Young's evaluations used the same set of Business Rules (version 1.8 or IL tariff Ill. C.C. No. 20, Part 2, Section 11.E) for purposes of their respective evaluations.
50. As will be explained below, the current findings or results of the BearingPoint and Ernst & Young reviews conducted of SBC Illinois' performance measurement data indicate that the three months of commercial performance data results submitted by SBC Illinois in this proceeding, cannot be relied upon. Therefore, the performance measure data submitted by SBC Illinois in this proceeding should not be given significant weight as evidence of its compliance with the Section 271 14 point checklist. Further, the additional assurances of performance measurement data reliability provided by SBC Illinois affiant Ehr do not adequately explain away the inaccuracies that currently exist in SBC Illinois' performance measurement data.
51. Finally, it is my understanding that as a result of the latest six-month review collaborative session that SBC Illinois represented in the hearings that two-thirds to 75% of the performances measures will be affected when the six-month review changes are implemented. The implementation of these agreed-upon six-month review changes is scheduled for the first and second quarter of

2003²⁶. This means the performance measures and business rules being evaluated, as evidence of compliance in this proceeding will soon be changing. This fact is very concerning since SBC Illinois has not proven that its procedures and controls in place to make changes to performance measures will ensure that additional data reliability concerns will not be introduced when the six-month review changes are implemented by SBC Illinois.

A. PERFORMANCE MEASUREMENT TERMS

52. SBC Illinois reports 150 different performance measures on a monthly basis, which provide important statistics and results with respect to the company's performance in providing service its wholesale customers. Each performance measure reports on different aspects of SBC Illinois OSS. All 150 performance measures have its own business rule document associated with it that defines specifically what aspect of SBC Illinois' OSS is being measured. In addition, the business rule document lists the specific data to be included as well as excluded, the levels of disaggregation (or various reporting levels for the performance measure), the calculation formula, the reporting structure (whether data for CLECs, SBC retail, or SBC affiliates is reported), whether the measure is applicable to Tier 1 or Tier 2 of the performance remedy plan and if so what level is assigned (low, medium, or high) for each remedy tier and finally indicates whether the performance measure has a parity or benchmark standard. If the measure has a benchmark standard then the specific benchmark the company is to meet is defined. All of this information is detailed

²⁶ February 11, 2003 Tr. at 3042.

in each business rule document and SBC Illinois is supposed to report its performance measures consistent with the business rule documents discussed with the CLEC community and approved by the Commission.

B. BEARINGPOINT DECEMBER 20, 2003 PERFORMANCE MEASUREMENT REPORT

53. BearingPoint began its investigation of SBC Illinois' performance measurements in November 2000. BearingPoint continues to issue findings on its performance metric evaluation weekly, and SBC Illinois continues to address the concerns raised by BearingPoint. The facts and findings presented by BearingPoint in its December 20, 2002 OSS Evaluation Project: Performance Metric Report ("Metrics Report")²⁷, taken alone — and without even considering the findings issued in the E&Y evaluation which I touch upon later -- raise serious doubts as to the integrity and accuracy of SBC Illinois' performance measurement data and SBC Illinois' ability to produce the data, which contradict the statements of Mr. Ehr. Ehr Affidavit, ¶¶214, 379.
54. In its performance metric evaluation, BearingPoint evaluated 303 individual evaluation criteria. BearingPoint assigned each evaluation criteria one of four results similar to the operational test as explained earlier in my affidavit. Below in Table 2 is a high level summary of BearingPoint's results (Metrics Report at 8).

²⁷ As admitted by mutual agreement of the parties during the February 5, 2003 hearing.

Table 2 – BearingPoint Performance Metrics Evaluation Results

Test Family	Number of Evaluation Criteria				
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	Total
Performance Metrics Reporting (All 5 tests)	64	116	91	32	303

55. As of December 20, 2003, BearingPoint was able to report that the company satisfied 64 evaluation criteria (23.7% satisfied), did not satisfy 116 evaluation criteria (42.8% not satisfied) and are still working to determine a result for 91 evaluation criteria (33.6%). BearingPoint has also determined that 32 of the evaluation criteria are not applicable to its review, and therefore assessments for these items have not and will not be provided. In cases where evaluation criteria are not satisfied, BearingPoint indicates that CLECs and regulators may diminish their reliance on performance metrics as they assess the quality of the service being provided by SBC Illinois.²⁸ In other words, CLECs and the Commission should not rely upon these aspects of SBC Illinois' performance measurement system until they have proven to be satisfied.

56. Mr. Ehr states that none of BearingPoint's findings to date in its Metrics Review are sufficient enough to warrant a finding of non-compliance, or to preclude the Commission from evaluating SBC Illinois' compliance with the 14 point checklist based on the performance measure data submitted and all of the information before it. Ehr Affidavit, ¶243. I, however, cannot concur with these

²⁸ BearingPoint Performance Metrics report at 30.

statements. As indicated in Table 2 above, the totality of findings reported by BearingPoint demonstrate that the Commission is currently precluded from assessing SBC Illinois' compliance with the Section 271 checklist based upon the September, October and November 2002 performance measurement data submitted by the company in this proceeding. The company has the burden to demonstrate that its performance measurement results are accurate and reliable, and it has failed to meet this burden. Mr. Ehr stated, in this proceeding, that the only way Staff would know problems exist in the underlying data or reporting of SBC Illinois' performance is through SBC Illinois' own admission, or through an independent review.²⁹ BearingPoint is in the process of conducting its independent review and as of December 20, 2002 reported that SBC Illinois failed to satisfy 116 of the key evaluation criteria defined for the examination and was unable to provide an opinion at the time on 91 evaluation criteria. This represents over 76% of the evaluation criterion being evaluated.

Detailed BearingPoint Performance Measurement Results

57. Table 3, below, breaks down the high-level metrics results by the individual performance measurement tests BearingPoint conducts. Also in this section, I provide an overview of each of the tests BearingPoint conducts with respect to its Performance Measurement review and I summarize the results of each test as of December 20, 2002, unless noted otherwise.

²⁹ February 11, 2003 Tr. at 3097-3098.

Table 3 – BearingPoint Metrics Evaluation Results by Test Family

Test Family	Number of Evaluation Criteria				
	Satisfied	Not Satisfied	Indeterminate	Not Applicable	Total
PMR1	13	59	54	0	126
PMR2	3	0	0	0	3
PMR3, PMR3B	26	4	0	0	30
PMR4	2	12	26	32	72
PMR5	20	41	11	0	72

PMR1: Data Collection and Storage Verification and Validation Review

58. BearingPoint’s PMR1 review evaluates SBC Illinois’ policies and practices for collecting and storing unprocessed data that resides in, and flows through, SBC Illinois’ information systems, as well as processed data used in the creation of performance metrics and retail analogs.³⁰ It is important to ensure a company properly collects and stores its unprocessed data or raw data, because without such data, performance measurements will not be reported accurately and complete and thorough audits cannot be conducted.
59. BearingPoint determined SBC Illinois satisfied 12 evaluation criteria (10% Satisfied), did not satisfy 60 (48% Not Satisfied), and has not yet determined a result for the remaining 54 evaluation criteria.

³⁰ For further description of the SBC Illinois’ data collection and storage business process description, test methodology, and test targets and measures please see the BearingPoint’s Performance Metrics Report at 13-19.

60. There are seven subtests within PMR1 that assess SBC Illinois' metrics data collection and storage processes documentation, metrics data processing and technical requirements documentation, metrics data processing and storage capacity management, metrics data processing controls, back-ups of critical metrics data, metrics data retention, and metrics data read and write access.
61. Not one of these seven subtests have a complete set of satisfied results and two of the subtests, metrics data processing and storage capacity management, and metrics data read and write access are completely indeterminate at this time. BearingPoint has uncovered issues with respect to the completeness of metrics data collection and storage process documentation and metric data processing and technical requirements documentation. Since December 20, 2002, BearingPoint has issued additional findings that SBC Illinois' data processing procedures do not have adequate edits and controls and SBC Illinois has been unable to demonstrate that certain systems of record and/or reporting system data have been retained in compliance with regulatory requirements³¹.
62. The PMR1 data evaluation criteria are vital to SBC Illinois' performance metrics data collection and processes, if the company cannot demonstrate that it can satisfy the majority of these evaluation criteria, the findings in BearingPoint's Metrics Report raise too many questions to trust that SBC Illinois has adequate data collection and storage practices and procedures in place to be able to report its performance metrics data in an accurate and consistent manner.

³¹ BearingPoint Exception Report 186, www.osstesting.com.

PMR2: Metrics Definitions and Standards Development and Documentation
Verification and Validation Review

63. BearingPoint's PMR2 review assesses SBC Illinois' policies and practices for developing, documenting and publishing metric definitions, standards and reports³².
64. BearingPoint's Metrics Report states that it determined the company satisfied the evaluation criteria established for the PMR2 test and that no test aspects remain. Specifically, through observations, BearingPoint was able to determine that the Commission approved the business rules in use by SBC Illinois during test, the business rules are published through a distribution channel accessible by relevant parties, and that the performance measurement reports are published on time through a distribution channel also accessible by relevant parties.

PMR3: Metrics Change Management Verification and Validation Review

65. BearingPoint's PMR3 review assesses SBC Illinois' overall policies and practices for managing changes to metrics and for communicating these changes to the ICC and CLECs.³³
66. BearingPoint reports the company satisfied 12 of the evaluation criteria and has not satisfied four evaluation criteria. The four criteria BearingPoint reports the company has failed, but which BearingPoint continues to evaluate, are PMR3-

³² For further description of the SBC Illinois' metrics definition and standards development business process description, test methodology, and test targets and measures please see the BearingPoint's Performance Metrics Report at 20-22.

³³ For further description of the SBC Illinois' metrics change management business process description or the specific test methodology and test targets and measures see the Metrics Report at 23-25.

6, PMR3-7, PMR3-12 and PMR3-16. Specifically, BearingPoint has observed instances where SBC Illinois' metrics change management process does not provide for the monitoring of source systems for changes that impact metrics reporting; SBC Illinois does not comply with intervals for implementing changes to metrics business rules; SBC Illinois does not have adequately defined procedures or tools to test changes to calculation programs, processes; and systems involved in the production and reporting of performance measurements and that performance metrics changes did not follow the documented metrics change management process. These findings reflect grave deficiencies in key processes that a company needs to have in place to implement changes to its performance measurements without impacting the integrity or accuracy of the data being reported.

PMR3B: Performance Measurement Restatement and Remedy Recalculation Validation Review

67. BearingPoint's PMR3B review assesses SBC Illinois' overall documented policies and practices for recalculating remedy payments resulting from restated performance measurements, and for communicating these changes to the Commission and CLECs. The test does not evaluate SBC Illinois' adherence to the documented policies and practices³⁴, and therefore only looks at written material for how the process should occur.

³⁴ For further description of the SBC Illinois' performance measurement restatement and remedy recalculation business process description or the specific test methodology and test targets and measures see the Metrics Report at 23-25.

68. BearingPoint's review was conducted from April through November 22, 2002 and BearingPoint determined SBC Illinois satisfied each of 14 evaluation criteria related to written documentation, policies and procedures with respect to remedy recalculations when performance measurement restatements occur.

PMR4: Metrics Data Integrity Verification and Validation Review

69. BearingPoint's PMR4 review evaluates the overall policies and practices for processing the data used by SBC Illinois in the production of the reported performance metrics standards.³⁵ This review is intended to verify that SBC Illinois correctly captures data from external sources, and transfers the data from the point of collection down to the reporting system while maintaining the overall integrity of the data.
70. For each of the 18 different groupings of SBC Illinois' 150 performance measurements ("Measure Groups"), as defined by the company (Appendix E to BearingPoint's written responses to the February 5, 2003 hearing), BearingPoint is evaluating whether or not each of the Measure Groups satisfy or meet the following four criteria: (1) required source records are included in data used to calculate measures; (2) inappropriate records are not present in processed data used to calculate measures; (3) records in processed data used to calculate measures are consistent with unprocessed data from source

³⁵ For further description of the SBC Illinois' metrics data integrity business process description or the specific test methodology and test targets and measures see the Metrics Report at 29-31.

systems; and (4) data fields in processed data used to calculate measures are consistent with unprocessed data from source systems.³⁶

71. As of the date of the Metrics Report, BearingPoint had only been able to determine that the performance measures in the NXX Measure Group satisfy the applicable evaluation criteria. BearingPoint has found problems with the following 8 Measure Groups; Ordering, Provisioning, Billing, 911, Coordinated Conversions, Bona Fide Requests and Other. BearingPoint, in its review, determined that it could not conduct the data integrity review for the following five Measure Groups: Miscellaneous Administrative, Directory Assistance/Operator Services, Poles, Conduits and Right-of-way, Collocations, and Directory Assistance Database. The remaining four Measure Groups are still under investigation; Pre-ordering, Provisioning, Interconnection Trunks and Facilities Modification.³⁷ Since the Metrics Report was published BearingPoint has issued four new findings in its review of SBC Illinois' data integrity; Exception Reports 183, 184, 185 and Observation Report 783.
72. Successful completion of this test is very important, as data integrity problems, such as missing data or incorrect transformation of data, may result in performance measurements being misstated.³⁸

³⁶ Metrics Report at 119.

³⁷ Id.

³⁸ February 5, 2003 Tr. at X. Response to Staff Question BE/Staff M7.

PMR5: Metrics Calculations and Reporting Verification and Validation Review

73. BearingPoint's PMR5 review assesses the processes used by SBC Illinois to calculate performance measurement results and retail analogs. The test also assesses consistency between the Commission-approved metrics business rules, and the rules used by SBC Illinois to calculate the performance metrics.³⁹
74. BearingPoint, in its PMR5 evaluation determines, for each of the 18 different Measure Groups of SBC Illinois' 150 performance measurements, whether or not each Measure Group satisfies or meets the following four criteria: (1) required metrics are included in SBC Illinois performance measurement reports; (2) SBC Illinois reported and BearingPoint calculated metrics values agree; (3) SBC Illinois' implemented metrics calculations are consistent with the document metrics calculation rules; and (4) SBC Illinois implemented metrics exclusions are consistent with the documented metrics exclusion rules.⁴⁰
75. BearingPoint originally began its PMR5 review by analyzing performance measurement data reported by the company for the data month of April 2001, contrary to Mr. Ehr's testimony that evaluation began with an evaluation of January-March 2002. Ehr Affidavit, ¶282. After working on the data reported in April 2001 for some time, BearingPoint, in discussions with SBC Illinois and Staff, decided that the evaluation ought to be moved to a more recent data

³⁹ For further description of the SBC Illinois' metrics calculations and reporting business process description or the specific test methodology and test targets and measures please see the BearingPoint's Performance Metrics Report at 29-31.

⁴⁰ BearingPoint Metrics Report at 189.

month. BearingPoint's findings indicated that SBC Illinois needed to make a number of calculation changes, and modifications to correct deficiencies; SBC Illinois indicated that the results of those changes would be seen in later data months. Therefore, SBC Illinois asked BearingPoint to move its evaluation to the October 2001 data month. BearingPoint began its evaluation of the October 2001 data month and continued to uncover problems, issued Observation Reports and worked with the company to communicate the issues and questions it had. Once again, it was determined that the evaluation should be moved to a more recent data month, and January 2002 data was selected and the test continued. In the summer of 2002, the test again came to a point where such a large number of corrections and clarifications or restatements had to be made to the January 2002 data that the parties again determined to move the evaluation period to a more recent data month. SBC Illinois suggested the evaluation be moved to the July and August 2002 data months.

76. Specifically, BearingPoint moved its PMR5 evaluation to the October 22, 2002 posting of SBC Illinois' performance measurement data for July and August 2002. In its Metrics Report, BearingPoint reported that it was able to verify SBC Illinois satisfied the four evaluation criteria for only the Bona Fide Request Measure Group for the October 22, 2002 posting of SBC Illinois' performance measurement data for July and August 2002. The NXX Measure Group was

indeterminate and the remaining 15 Measure Groups contain one or more “Not Satisfied” result⁴¹.

77. It is clear that the PMR5, data replication, review by BearingPoint is not complete, and BearingPoint has been unable to verify that the company calculates its performance measurements correctly and in accordance with the Commission’s approved business rules. BearingPoint’s PMR5 review continues.

Summary of BearingPoint’s Performance Metrics Results

78. Of the five primary test families that BearingPoint conducted tests upon, SBC Illinois has only satisfied the PMR2 review. SBC Illinois has been unable to demonstrate to BearingPoint that it can satisfy the evaluation criteria with respect to its data collection and storage capabilities, its metrics change management policies and practices, its performance measurement data integrity and its ability to calculate its performance measurement results and retail analogs. The specific metrics deficiencies reported by BearingPoint which to these test aspects and the evaluation criteria BearingPoint has been unable to opine upon 26 months after beginning the evaluation of SBC Illinois’ performance metrics data and reporting systems, provides clear indication that there is more work to be done and that at this time the Commission should not rely upon the performance measurement data being reported by the company.

⁴¹ Id.

Completion of the BearingPoint Performance Metrics Review and Recommendations

79. BearingPoint's most recent published Metrics project plan, which was developed in conjunction with SBC Illinois, indicates the performance measurement review is scheduled to complete in June 2003. Based upon my involvement in this project, and the repeated delays that I have witnessed since its inception, it is unlikely that the review will be successfully completed within the June 2003 timeframe.
80. Mr. Ehr states that SBC Illinois is not asking the Commission to terminate the independent third party metrics review and that SBC Illinois will continue to work with BearingPoint to address findings as they are raised. Ehr Affidavit, ¶244. If this Commission decides to provide a positive Section 271 recommendation to the FCC prior to successful completion of the BearingPoint review, I recommend that it do so under contingent upon a commitment from SBC Illinois that it will address all deficiencies raised by BearingPoint in the metrics review and commit to successfully conclude the BearingPoint metrics review no later than November 2003.

C. ERNST & YOUNG PERFORMANCE MEASUREMENT EXAMINATION

81. SBC Illinois hired Ernst & Young, LLP ("E&Y") to conduct an evaluation of its performance measurements in Illinois in late October 2002⁴², notwithstanding the fact that BearingPoint had already been approved by the Commission to perform similar work that SBC requested of E&Y. Specifically, E&Y performed

⁴² February 12, 2003 hearing Tr. at 3305.

an evaluation similar to aspects of BearingPoint's PMR1, PMR4 and PMR5 reviews.

82. SBC hired E&Y to conduct a performance metrics evaluation for the state of Michigan in May 2002 and E&Y in the hearings on February 12, 2002 indicated that much of the work E&Y conducted under the Michigan engagement was performed on a five state basis. February 12, 2003 Tr. at 3307-3310, 3321.
83. I have evaluated the information provided by E&Y, and I am of the opinion that findings in the E&Y report present strong evidence that SBC Illinois' performance measurement data is unreliable.
84. In its Scope and Approach document, E&Y explains that SBC asked it to perform two separate examinations. Ehr Affidavit, Attachment N.
 - (a) Attestation Examination of the Accuracy and Completeness of SBC Ameritech's Performance Measurements for a three month period in accordance with the Business Rules ("Compliance Examination")
 - (b) Attestation Examination of the Effectiveness of Controls over SBC Ameritech's Process to Calculate Performance Measurements for a three month period ("Controls Examination")
85. E&Y's evaluations looked at SBC Illinois' performance measurement data and controls for the March, April and May 2002 time period against the Business rules in accordance with SBC Illinois Tariff: ILL CC. No. 20 - Part 2 – Section 10 – Section E. Id.

BearingPoint and E&Y's Performance Metrics Evaluations are Different

86. During my analysis of E&Y's Compliance Report and Controls Report, I concluded that the E&Y and BearingPoint evaluations are quite different from

one another. While there is overlap in the two reviews, there are aspects of each review that are not included in the other. Specifically, portions of BearingPoint's PMR1 test, and all of its PMR2 and PMR3 tests were not covered by E&Y's examinations. In addition, the methods employed by E&Y in its review to satisfy the BearingPoint PMR4 and PMR5 test parameters outlined in the Commission-approved Master Test Plan are different from BearingPoint's, and therefore cannot be considered as a replacement or substitute for the PMR4 and PMR5 tests BearingPoint is conducting.

Compliance Evaluation

87. In its Report to Management in its Compliance Evaluation, E&Y states: "In our opinion, considering the company's interpretations of the Business Rules discussed in Attachment B of the Report of Management, and except for the material noncompliance described in Column 3 of Attachment A of the Report of Management, the company complied, in all material respects, with the Business Rules during the Evaluation Period[.]" Ehr Affidavit, Attachment P.
88. In order to understand precisely what E&Y is asserting with its opinion, it is vital to carefully examine the quantity and magnitude of the items that E&Y identifies as being considerations and exceptions to its opinion. Specifics regarding these matters are set forth in E&Y's findings of material noncompliance as documented in Attachment A of E&Y's report, Ehr Affidavit, Attachment Q, and the company's interpretations of the Business Rules as documented in Attachment B. Ehr Affidavit, Attachment R.

E&Y Findings of Material Noncompliance

89. E&Y defines “Material Noncompliance” as exceptions to compliance with the Business Rules for the months of March, April and May 2002 that met either of the following criteria. Ehr Affidavit, Attachment P.

- (a) The error, if corrected, would change the original reported performance measurement (“PM”) result by five percent or more (or)
- (b) The error, if corrected, would cause the PM’s original reported parity attainment/failure or benchmark attainment/failure to reverse.

The level of materiality E&Y applied was at the sub-measure level and was determined against the aggregate CLEC data⁴³. E&Y did not look at the cumulative effect of exceptions on a given measure/sub-measure. February 12, 2003 Tr. at 3370.

90. The definition E&Y provides for Material Noncompliance demonstrates that the exceptions or errors noted are material, and have a significant impact on the results presented for the data months evaluated. E&Y classified its exceptions of Material Noncompliance by the statements of SBC Illinois regarding the action taken or to be taken by the company for the exceptions in each category. Following are the five classification categories;

- I. Exceptions Corrected and March, April and May 2002 Data was Restated
- II. Exceptions Corrected but March, April and May 2002 Results were Not Restated
- III. Exceptions Corrected but Not Yet Reported or Restated
- IV. Exceptions in which No Corrective Action is Planned by the Company
- V. Exceptions in the Process of being Corrected

⁴³ February 12, 2003 hearing Tr. at 3369.

91. Table 4 below shows various statistics on the exceptions E&Y found by category as they relate to the 150 performance measurements that SBC Illinois reported for the E&Y evaluation time period (March-May 2002).

Table 4 – E&Y Exceptions of Material Noncompliance

	Exception Categories					
	I	II	III	IV	V	ALL
Number of Exceptions	53	51	2	7	15	128
Number of Performance Measures Impacted by one or more Exception	75	72	5	10	44	113
% of All Performance Measures Impacted	50%	48%	3%	7%	29%	75%
Number of Performance Measures Impacted by Exceptions	211	137	5	11	50	414
Average Number of Exceptions Per Performance Measure Impacted	4	2.7	2.5	1.6	3.3	3.2

92. *E&Y Exception Category I:* E&Y identified 53 different exceptions that affected one or more of 75 performance measurements, or 50% of the performance measures reported during the time period evaluated. Ehr Affidavit, Attachment Q. On average, each performance measure affected was affected by four different exceptions. While E&Y states that it tested the accuracy of the corrective actions implemented by the company for the restated March, April and May 2002 data, there has been no assurance provided to indicate that the data months beyond May 2002 no longer contain the data inaccuracies raised by the category I exceptions. February 12, 2003 Tr. at 3385.

93. *E&Y Exception Category II:* E&Y identified 51 category II exceptions of which none were corrected for the March, April and May 2002 data months E&Y evaluated. Ehr Affidavit, Attachment Q. Mr. Ehr, states that the issues were either related to diagnostic performance measures or that the data needed to perform the restatements was not available and therefore would not be restated for the March-May 2002 data months. Ehr Affidavit, ¶227. However, of the 51 category II exceptions, only 12 diagnostic measures were affected by one or more of these category II exceptions, and 60 out of the 127 parity and benchmark measures were affected by one or more of the category II exceptions. As noted by E&Y, 48% of SBC Illinois' performance measure data for the March, April and May 2002 time period would, if corrected, change the reported results by more than 5% in either direction, or would alter the pass/failure attainment determination. Therefore, SBC Illinois is currently reporting, and will continue to report, inaccurate performance measurement data for the March, April and May 2002 time period for 48% of all performance measures reported.
94. The Commission should disregard Mr. Ehr's statement that this proceeding's focus should only be placed upon the data presented for the September-November 2002 time period. The inaccuracies present in the March-May 2002 performance measurement data go right to the heart of SBC Illinois' data accuracy and reliability problems, and are predictors of possible future problems, if not addressed. In the Department of Justice ("DOJ") showing of PM data submitted by Mr. Ehr, Ehr Affidavit, Attachment B, the company

presents one year of its performance measurement results as evidence in this proceeding, and the Category II findings by E&Y show that data inaccuracies exist for almost one half of all performance measures that SBC Illinois reported for the March, April and May 2002 data months in its filing. In addition, while SBC Illinois has asserted that it has taken corrective action on each of the exceptions at some point in time after the March, April and May 2002 data months. Many of the corrections E&Y reported were not made until the September, October or the November 2002 results, Attachment B to E&Y Report, and E&Y's verification of SBC Illinois' corrective action occurred for a single monthly only. In the February 12, 2003 hearings E&Y stated that it can provide no assurance that the exceptions noted do not exist in data months after the month it completed its validation. February 12, 2002 Tr. at 3385. Therefore, some of these exceptions may be present in the three months of results for September – November 2002 that SBC Illinois has presented as evidence of its compliance with the Section 271 competitive checklist in this proceeding.

95. *E&Y Exception Category III:* E&Y identified two category III exceptions that affect 5 performance measures, none of which are diagnostic measures. Ehr Affidavit, Attachment Q. Specifically these exceptions impact four maintenance and repair performance measures (PM 54, 54.1, 65 and 65.1) and one billing performance measure (PM 14). These category III exceptions still exist in the performance measurement data SBC Illinois reports for the March – May 2002 (corrected but not yet reported or restated). These two exceptions may also

exist in the three months of data SBC Illinois submitted in this proceeding as evidence of its compliance. Ehr Affidavit, ¶228, and SBC Illinois Performance Measurements DOJ tracking report provided as Attachment B to Mr. Ehr's affidavit. SBC Illinois has said that the exceptions will be corrected with the December 2002 performance data and data months moving forward but there has been no statement by SBC Illinois that this has in fact occurred and there has been no verification performed by an independent party. Further, during the February 12, 2003 hearings E&Y said they have not been contracted to continue their evaluation work in Illinois. Therefore it appears there is no plan today by SBC Illinois to have an independent party verify that these exceptions have been addressed.

96. *E&Y Exception Category IV:* E&Y identified 7 category IV exceptions that impact 10 different performance measures, Ehr Affidavit, Attachment Q, (only one of which is a diagnostic performance measure), or approximately 7% of the performance measures for which SBC Illinois is not planning to undertake any corrective actions. Ehr Affidavit, ¶229. Therefore, these exceptions are present to the extent applicable in the data SBC Illinois is reporting for March - May 2002, affecting 10 performance measures, and may also exist in the September, October and November 2002 performance measurement data that SBC Illinois has provided in this proceeding as evidence of its compliance with the 14 point checklist.
97. *E&Y Exception Category V:* E&Y identified 15 exceptions that affect 44 different performance measures, Ehr Affidavit, Attachment Q, or approximately

29% of the performance measures for which SBC Illinois has not yet implemented any corrective action. Ehr Affidavit, ¶230. Therefore, these category V exceptions are present in the data SBC Illinois reports for March, April and May 2002 impacting 29% of all performance measures and are most likely also present in the data reported since May 2002; which includes the three months of performance measure data submitted in this proceeding.

98. In summary, E&Y reported that it found 128 exceptions during its review period. In my analysis of the reported results, each exception affected one or more of 113 out of the 150 performance measures SBC Illinois reports on a monthly basis, or 75% of its performance measures. February 12, 2003 Tr. at 3380. The company has represented that it has addressed a portion of the deficiencies, and it appears E&Y performed limited validation for these corrections. However, assuming this to be true, the 15 exceptions in Category V that affect 29% of the performance measures, and perhaps a number of the Category 4 exceptions, nonetheless remain in the data SBC Illinois reports today. These failings are, in my opinion, significant and undermine the ability for any party to properly evaluate SBC Illinois' performance measurement data submitted in this proceeding for the affected performance measures.

Company's Interpretations of Business Rules

99. In addition to the exceptions E&Y found during its review, E&Y also reported several interpretations. Interpretations are the definitional liberties that SBC Illinois has taken with specific performance measure business rule documents. Interpretations that SBC Illinois has chosen to apply to the business rules may

not be the same as Staff, the Commission or CLECs might apply in its own reading of the business rules and therefore ambiguity in what the performance measure actually reports may be in question. Given the E&Y reported interpretations, SBC Illinois has not reported its performance results in compliance with the business rules for the performance measures at issue during the E&Y evaluation period or for the September-November 2002 data submitted by the company as evidence of compliance with Section 271 in this proceeding.

100. While E&Y conducted its evaluation, SBC Illinois provided E&Y with the interpretations that in SBC's view, E&Y should apply to the Commission-approved business rule documents. E&Y did not consider these interpretations provided by the company to be exceptions to compliance with the Business Rules on the part of SBC Illinois. While many of these interpretations have since been discussed in the current six-month review proceeding, it does not excuse the fact that the business rule documents were not specific enough to clearly communicate the interpretations that it asked E&Y to apply to the evaluation. In addition, Mr. Ehr's affidavit states that the reasonableness of SBC Illinois' interpretations is something the Commission should decide. Although, during the course of the review, the company did not specifically ask Staff or the Commission to review or approve the interpretations it provided to E&Y. Ehr Affidavit, ¶231. In the hearings, Mr. Ehr noted that a certain number of interpretations were not discussed within or during the six-month review

process and SBC unilaterally decided not to make any clarifications in the business rules for these items.⁴⁴

101. E&Y reported a total of 50 business rule interpretations (though SBC only recognizes that 48 interpretations were applied, Ehr affidavit, ¶232) that apply to 94 separate performance measures or 63% of the performance measures SBC Illinois reports. Of the 94 performance measures that had interpretations, on average three different interpretations applied to each affected performance measure.

102. Table 5, below, shows specific statistics on the business rule interpretations E&Y applied to its evaluation.

Table 5 – E&Y Business Rule Interpretations

Number of Business Rule Interpretations	50
Number of Performance Measures with One or More Interpretation	94
Percent of Performance Measures with One or More Interpretation	63%
Total Performance Measures Impacted by Interpretations	148
Average Number of Interpretations Per Performance Measure Impacted	3.0

103. SBC Illinois states that 32 of the interpretations have been agreed upon in the most recent six-month review collaborative, and the remaining interpretations do not require any changes, because the company believes the current procedures it uses to calculate the PM is consistent with the letter of the current business rules. Ehr Affidavit, ¶232. Typically, changes to the business rules

⁴⁴ February 11, 2003 Tr. at 3087-3088.

are discussed, agreed upon by participants in the six-month review collaborative, approved by the Commission and then implemented on a prospective basis. Therefore, if the 32 interpretations were actually significant enough to require changes to the business rules, and the Commission has not yet formally approved these changes, then they are not in effect today or for the March-May 2002 data report months. If this is the case, then SBC Illinois has not reported its performance results in compliance with the business rules for the performance measures at issue during the E&Y evaluation period or for the September-November 2003 data submitted by the company as evidence of compliance to the 271 checklist in this proceeding for that matter.

Controls Examination

104. In its Controls Examination, E&Y disclosed: "Certain processes used to generate performance measurements, primarily related to the manual collection and processing of data and computer coding and modifications, did not include certain controls to ensure the accuracy of the reported performance measurements. These control deficiencies contributed to the need to restate certain data and modify certain performance measurements on a prospective basis." Ehr Affidavit, Attachment S. The two processes that E&Y disclosed that did not include controls to ensure the accuracy of the reported performance measures were:

- (1) Manual Collection and Processing of Data
- (2) Computer Program Coding and Modifications. Id.

105. During the February 12, 2003 hearings, E&Y further clarified that the deficiencies noted in the Controls Report were caused by SBC Illinois' (1) initial implementation of the performance measures in the year 2000; (2) implementation of the LASR application as part of the Plan of Record (POR) relates in April 2002; and (3) the execution of certain manual activities required in the monthly performance measure result generation process.
106. Mr. Ehr states that the control deficiency findings by E&Y have been addressed. Specifically, Mr. Ehr states that the controls have been expanded and enhanced, that new staff personnel have now been trained or that the measures impacted has such low volumes that it is not material. Ehr Affidavit, ¶¶235-239.
107. During the hearings, E&Y indicated that to the extent the exceptions have been corrected E&Y has tested the control deficiencies and it is comfortable the controls in those areas have been implemented but it can not issue an opinion on the change management processes and procedures in place of SBC Illinois because it did not perform enough reviews to render an opinion. February 12, 2002 Tr. at 3356. Additionally, E&Y stated that it did not do any control testing other than on the corrective actions implemented by the company. February 12, 2003 Tr. at 3361.
108. During E&Y's verification work to ensure that exceptions had been fixed per the statements of SBC Illinois, E&Y found instances where the corrective action wasn't fully implemented or implemented as intended by the company. Specifically, E&Y saw these types of problems occur for its verification work for

5 exceptions that affected 10 different performance measures. February 12, 2003 Tr. at 3377. If SBC Illinois' controls were solid and working effectively these types of errors, in my opinion, should not occur.

109. Some of Mr. Ehr's assertions that the control deficiencies have been addressed are unsupported. While controls may have been improved, the efficacy and adequacy of such improvements are not clear. I am not convinced -- nor should this Commission be convinced -- that SBC Illinois has addressed its performance measurement reporting control deficiencies, until SBC Illinois can consistently report its performance measures with accuracy and integrity on a monthly basis and an independent third party provides verification of this fact. Restatements to correct errors six months after posting data should not be deemed acceptable. It is my opinion that the company should restate results if they find inaccuracies, as the company has done; however, I also believe the frequency of restatements and the timing of restatements, well after initially posting performance measure data, point to an inherent problem with SBC Illinois' process controls within its performance metrics organization.

Findings with Respect to the Ernst & Young Evaluation

110. The findings of E&Y presented above from both E&Y's Compliance Report and E&Y's Control Report indicate there continue to be serious problems with SBC Illinois' reported March-May 2002 performance measurement data (Category II and V exceptions) and there are also 15 Category V exceptions (affecting 29% of the performance measures)_the company has not yet corrected that affect

the September – October 2002 data months the company has submitted as evidence of compliance in this proceeding. In addition not all business rule interpretations SBC Illinois represented to E&Y have been discussed with the six-month review collaborative and none of these interpretations have been approved by this Commission to apply to past data months; therefore, SBC Illinois is not reporting its performance measures consistent with the business rules. Finally, E&Y pointed out several control deficiencies it uncovered during its review but there has been no verification that these control deficiencies have been thoroughly addressed. E&Y's findings lead to my conclusion that problems remain with SBC Illinois' reported performance measurement data and that the data submitted by SBC Illinois as evidence of its Section 271 compliance is not accurate nor reliable.

D. SBC ILLINOIS ADDITIONAL ASSURANCES OF RELIABILITY ARE NOT SUFFICIENT

111. In his affidavit, Mr. Ehr asserts that on-going supervision by the Commission, data reconciliation, access to raw data and SBC Illinois' data controls should provide additional assurances of reliability of SBC Illinois performance measurement results. Ehr Affidavit, ¶215.

112. These three assurances of reliability, which Mr. Ehr states, do not provide Staff or the Commission sufficient confidence that the errors and findings provided by BearingPoint and E&Y can be overlooked, or that the three months of performance measurement data submitted by SBC Illinois in this proceeding are accurate or reliable.

113. First, SBC Illinois has stated that the Commission's supervision and oversight in the matter of SBC Illinois' performance data has been ongoing and extensive. Ehr Affidavit, ¶¶293. While oversight is ongoing, Staff's supervision cannot be characterized as extensive. Staff attends six-month review sessions and meetings, and provides direction when needed. However, Staff does not have firsthand working knowledge of the business processes that the performance measures report on, nor does the Commission have data that it can collect itself to determine whether or not SBC Illinois' performance measures are being reported accurately. Regulators in general do not have live data to make an independent evaluation as to the integrity, accuracy or completeness of the data that a utility such as SBC Illinois reports. Therefore, the ongoing independent third party reviews currently taking place, and their successful completion, are crucial in providing this Commission with the assurance that the data SBC Illinois reports on its performance is accurate and reliable.

114. The next two items Mr. Ehr points to is the data reconciliation process and access to raw data that is available to CLECs. Mr. Ehr indicates that not one CLEC has requested data reconciliation or mini-audits from SBC Illinois despite being permitted to do so under the terms of the performance assurance plan ordered by the Commission in Docket (01-0120). Ehr Affidavit ¶¶297-299. Contrary to the statement of Mr. Ehr, the 01-0120 performance assurance plan does not allow for mini-audits to occur while a review or audit -- like the one being conducted by BearingPoint -- is ongoing. Specifically, the language in

Section 6.4.2 of the 01-0120 Remedy plan, which is currently in effect, states that mini-audits may not be performed, conducted or requested while the OSS third-party test, or an Annual Audit is being conducted. Ehr Affidavit, Attachment Y at 9.

115. Lastly, Mr. Ehr states that although solid to begin with, SBC Illinois' internal data controls have been further enhanced and should provide additional assurance of reliability. Ehr Affidavit, ¶292. The record in this proceeding disputes this statement. As discussed in this affidavit, both BearingPoint and E&Y have pointed out several areas of concern or failing with respect to SBC Illinois' data controls. Until the deficiencies have been addressed and the reviews have been successfully completed, this Commission should not accept the contention that SBC Illinois internal controls today provide assurances of data reliability now or for the future.

VI. PUBLIC INTEREST: SBC ILLINOIS' PERFORMANCE MEASUREMENT DATA CAN'T BE RELIED UPON TO DEMONSTRATE FUTURE COMPLIANCE

116. The FCC has explained that one factor it considers, as part of its public interest analysis, is whether a BOC would continue to satisfy the requirements of Section 271 after entering the long distance market.⁴⁵ The FCC has also stated that a BOC subject to performance monitoring and enforcement mechanisms would constitute probative evidence that the BOC will continue to

⁴⁵ *Joint Application by SBC Communications Inc. et al. for Provision of In-Region InterLATA Services in Kansas and Oklahoma*, CC Docket 00-217, FCC 01-29, ¶269 (rel. Jan. 22, 2001) ("SWBT Kansas/Oklahoma Order").

meet its Section 271 obligations and that its entry would be consistent with the public interest.⁴⁶

117. SBC Illinois' performance measurement plan and its anti-backsliding plan (a/k/a performance remedy plan) are the main components for monitoring SBC Illinois in order to ensure it continues to meet its Section 271 obligations, if approval is granted to SBC Illinois by the FCC. Both of these plans rely almost entirely on SBC Illinois' set of performance measures and the performance measurement data it reports.

118. In order for this Commission to rely upon any performance measurement plan and anti-backsliding plan, the Commission must have confidence in the integrity and accuracy of SBC Illinois' performance measurement data that are the inputs to these plans. In its Bell Atlantic New York 271 Order, The FCC stated that one important characteristic of an anti-backsliding plan is that there must be reasonable assurances that the BOC reported performance measurement data is accurate.⁴⁷ The efficacy of these plans is seriously undermined if the inputs are unreliable. The facts presented in my affidavit regarding SBC Illinois' performance measurement data clearly demonstrate that the data inputs to be used in any anti-backsliding plan, are unreliable at this point in time. Therefore, until SBC Illinois has proven that its performance measurement data is accurate the data cannot be relied upon by this Commission to demonstrate or ensure future compliance by the company.

⁴⁶ *Application of BellSouth Corporation et al. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, FCC 98-271, (rel. Oct. 13, 1998) ("Second BellSouth Louisiana Order").

⁴⁷ Bell Atlantic New York Order, ¶433.

VII. SBC ILLINOIS' PERFORMANCE MEASUREMENT RESULTS (3 MONTHS)

119. Given the facts provided in my affidavit with respect to the accuracy and reliability problems with SBC Illinois' performance measurement data it reports, both Staff and SBC Illinois can not perform a valid assessment of the three months of performance measurement data (September, October and November 2002) SBC Illinois submitted as evidence of its compliance with the Section 271 checklist in this proceeding. Notwithstanding this, for reasons explained in Staff witness McClerren's testimony, Staff is providing its assessment of SBC Illinois performance measurement data. I have analyzed preordering and ordering performance measurement data applicable to Section 271 checklist item (ii) as provided by the company. No diagnostic measures have been included in my analysis.

120. Staff affiant Dr. Genio Staranczak describes in his affidavit the statistical guidelines Staff is following for its analysis of the performance measurement data and these are the general guidelines I've followed for my analysis. Staff Ex. 30. Other Staff members are providing evaluations for the remaining performance measurement data submitted by SBC Illinois. Staff affiant, Samuel S. McClerren summarizes all of Staff's analysis on SBC Illinois' submitted performance measurement data, and provides Staff's opinion regarding whether the data presented by the company demonstrates SBC Illinois' compliance with the 14 point checklist or aspects of the 14 point checklist. Staff Ex. 29. The opinion Mr. McClerren provides is premised upon

the assumption that the performance measurement data SBC Illinois' submitted in this proceeding is accurate and can be relied upon.

Pre-Ordering Performance Measurement Results

121. Pre-ordering measurements track the activities and transactions that carriers initiate to gather information regarding customers, or the availability of services to provide to customers, prior to submitting a formal request or service order to SBC Illinois. If pre-ordering information is inaccurate, or delayed, CLECs may be placed at a competitive disadvantage, since pre-ordering functions are usually executed live while a customer or potential customer is speaking with a CLEC representative. Accordingly, benchmarks and parity standards have been developed for the pre-ordering measures collaboratively by SBC Illinois and the CLECs.

Checklist (ii): Pre-Ordering Measurement Results

PM	Description	# of sub-measures	Parity/ Benchmark
1.1	Average response time to provide loop qualification for xDSL	1	Parity
1.2	Percent of accurate DSL actual loop makeup information provided to carrier	2	Parity
2	Percent of responses received within X seconds for pre-order interfaces by function	66	Benchmark
4	Percent of time OSS interface is available compared to scheduled availability by OSS interface	18	Benchmark

122. I have examined four pre-ordering measures that apply to checklist (ii), performance measure 1.1, 1.2, 2 and 4. PM 1.1 and 1.2 are both parity measures with limited or no sub-measures and PM 2 and 4 both have sub-

measures and have a benchmark standard. SBC Illinois passed these four pre-order performance measures as my analysis below supports.

123. Performance measure 1.1 and 1.2 (and both sub-measures for PM 1.2) are within parity for the three months of data filed, as well as for December 2002 results. However, the average response time for manual loop make-up information, PM 1.1, increased significantly in the months of November and December 2002, to 14.75 and 16.24 hours respectively from 4.81 hours in October 2002. This initially concerned me, however, Mr. Ehr's explanation provided at the hearings sufficiently explained the shift. February 11, 2003 Tr. at 3064-3069. In addition, the response time for SBC Illinois' affiliate also arose at a similar rate, therefore, it does not appear the company performance in this area should be concerning.

124. For the three months of data submitted by the company for performance measure 2, the company met the benchmarks defined for 48 of the 66 sub-measures, and failed the benchmark standard for three sub-measures according to the statistical guidelines. The remaining 14 sub-measures did not have sufficient data to evaluate. Therefore, if the sub-measures without sufficient data are eliminated, the company met the benchmark standard for 49 of 52 sub-measures, or 94% of the sub-measures.

125. For the three sub-measures the company failed, it did not meet the benchmarks in two of each of the last three months. For sub-measure 15.2, Percent responses received within 13 seconds for a request for customer service record – EDI LSGO4/CORBA, the company missed the 95%

benchmark by 2.72% for November and by 4.5% in September. By December 2002 the result was a passing 99%. For sub-measure 16.1, Percent responses received within 8.0 seconds – Directory listing Inquiry – EDI LSOG4/CORBA, the company failed to meet the benchmark for September and October 2002 but was well above the 90% benchmark at 96% in November 2002 and was at 98% for December 2002. For sub-measure 18.1, Percent responses received within 1.0 second – Service Appointment Scheduling (due date) – EDI LSOG 4/CORBA, the company's performance has dropped quite substantially the last few months. The sub-measure has a benchmark of 90% and performance for October was at 86%, November at 84% and December down at 35.38%. However, for the companion sub-measure 18.2, Percent Responses Received within 2.0 seconds – Service appointment scheduling (due date) – EDI LSOG4/CORBA, the company has consistently exceeded the 95% benchmark. If the company had missed both of these measures, then the Commission would have cause for concern.

126. Performance measure 4, according to the statistical guidelines developed, exceeded the benchmark for each of its 18 sub-measures.

Ordering Performance Measurement Results

127. Ordering performance measurements track the various activities and transactions that are involved in the submitting and processing of service orders for requesting new service, modifying existing service or for requests to remove services or features. Delays in the processing or receipt of ordering

related transactions may competitively disadvantage CLECs, since CLECs rely on SBC Illinois to process and provide status of service orders on their behalf for their own customers.

Checklist (ii): Ordering Measurement Results

PM	Description	# of sub-measures	Parity/ Benchmark
5	Percent of Firm Order Confirmations (FOCs) returned within "X" hours	54	Benchmark
7	Percent mechanized completion notices returned within one hour of completion in ordering systems	3	Benchmark
7.1	Percent mechanized completions notices returned within one day of work completion	4	Benchmark
10	Percent mechanized rejects returned within one hour of receipt of the reject in MOR	1	Benchmark
10.1	Percent mechanized rejects returned within one hour of receipt of order	1	Benchmark
10.2	Percent manual rejects received electronically and returned within five hours	1	Benchmark
10.3	Percent of manual rejects receive manually and returned within five hours	1	Benchmark
10.4	Percentage of orders given jeopardy notices (as percent of total orders completed in period)	10	Parity
11.1	Mean time to return manual rejects received via an electronic interface	1	Benchmark
11.2	Mean time to return manual rejects received through a manual process	1	Benchmark
12	Percent of mechanized orders completed as ordered	1	Parity
13	Percent of orders from receipt to distribution that progress mechanically through to the company provisioning systems (flow through)	6	Both Benchmark and Parity
MI13	Percent loss notifications sent within one hour of service order completion	4	Benchmark

128. There are thirteen non-diagnostic ordering performance measures applicable to checklist (ii) that I evaluated. SBC Illinois has only passed 4 of the 13 ordering performance measures; PM 7, 10, 11.2 and 12. The company failed the remaining 9 ordering performance measures reviewed and the degree of failure is extremely significant. Below, I provide some examples of these significant failures.
129. Performance measure 5 is a benchmark measure with 54 sub-measures. The company met the benchmark for 29 sub-measures, missed the benchmark for 4 sub-measures and there was not sufficient data for the remaining 21 sub-measures. Overall the company met the benchmark standards for 29 of 33 sub-measures (if sub-measures with insufficient data are removed) or 88% of the sub-measures, which by the statistical guidelines established by Staff for this proceeding indicates the company has failed in its performance for PM 5, and is not delivering timely firm order confirmations (“FOCs”) to CLECs. The specific sub-measures SBC Illinois has failed are electronically and manually submitted UNE-P complex business (1-200) < 24 hours, electronically submitted LNP Only (20+), manually submitted UNE xDSL Loop (1-49) < 24 hours. CLECs require timely FOC notices in order to serve their own customers. FOC notices are returned to CLECs by SBC Illinois and indicate that the CLECs request/order has been accepted and it also communicates the committed due date for completion of the order. The company should be required to address these deficiencies prior to this Commission providing a positive Section 271 recommendation to the FCC.

130. PM 7.1 measures the percent of mechanized completion notices returned within one day of work completion. PM 7.1 has four sub-measures and according to the statistical guidelines the company has failed all four sub-measures. The fourth sub-measure tracks the completions returned for LNP only orders and the benchmark established is that 99% of completions will be returned within one day. SBC Illinois has reported 53.57%, 46.09% and 69.84% completion rates for the months from September – November 2002, which is far short of the 99% benchmark standard. BearingPoint in its December 20, 2003 report that the company is also failing in its performance of PM 7.1, with respect to the Test CLEC data. I am advised that SBC Illinois is currently working to correct these deficiencies but as I recommended earlier in my affidavit in reference to BearingPoint test point TVV1-28, SBC Illinois should address the issues submit independent third party verification to ensure that the issues have been resolved.

131. PM 10.1, 10.2 and 10.3 all report on percent of reject messages returned within X hours from receipt of the order. 10.1 specifically captures mechanized rejects, PM 10.2 captures manual rejects received electronically and 10.3 reports manual rejects receive manually. In the last year, the only instance where performance has been above the 97% benchmark is for PM 10.1, in the months of August and October 2002. For all other months, and for each of the three performance measures, the company failed to meet the benchmark. The company should be required to address these deficiencies as CLECs require

timely notification of errors on their orders in order to be able to provide efficient and timely service to their customers.

Summary of Performance Measure Results (3 Months) Analysis

132. For the 17 pre-order and order performance measures applicable to checklist (ii), according to the statistical guidelines, the company passed 8 of the performance measures (PM 1.1, 1.2, 2, 4, 7, 10, 11.2 and 12) and failed the remaining 9 performance measures which are all ordering performance measures (PM 5, 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, MI 13). It is my opinion that the three months of performance measurement data provided by the company in support of checklist (ii) does not demonstrate that, with respect to the ordering performance measures, SBC Illinois is providing non-discriminatory service to the CLECS. SBC Illinois should be required to correct the deficiencies associated with the ordering performance measures prior to receiving a positive Section 271 recommendation from this Commission. If the Commission elects to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key pre-order and order performance measures related to checklist (ii) then the company should be required to improve its performance for the ordering performance measurements.

VIII. CONCLUSIONS & RECOMMENDATIONS

133. Following are my conclusions and recommendations with respect to SBC Illinois' Phase I line loss notification compliance, operational support system deficiencies with respect to checklist (ii), the unreliability and inaccuracy of SBC

Illinois' performance measurement data and finally SBC Illinois' 3 months of performance measurement results submitted for its pre-order and order performance measurements.

Phase I Compliance: Line Loss Notifications

134. SBC Illinois has not implemented all of Staff's recommendations with respect to line loss notifications that this Commission found to be reasonable in the Phase I interim order.

- (1) SBC Illinois should make performance measure MI 13 a remedied measure of medium weighting.
- (2) All changes to performance measure MI 13 and MI 13.1 should be implemented by SBC Illinois prior to this Commission making a positive Section 271 recommendation to the FCC, since this Commission found that it was reasonable for the company to implement these changes within 45 days of the Phase I Order (which would be March 23, 2003).
- (3) The Commission should require SBC Illinois to keep its cross functional team in place until SBC Illinois provides six months of line loss notifications to CLECs without uncovering any new problems and without any of the old problems re-emerging.
- (4) SBC Illinois should respond with its intention to rectify these Phase I line loss notification compliance items in its rebuttal filing currently scheduled for March 3, 2002.

Checklist item (ii) – Access to OSS

135. SBC Illinois' performance, as reported by BearingPoint during its independent third party review, is not sufficient with respect to six aspects of SBC Illinois' OSS that relate to its Ordering, Provisioning, Maintenance and Repair and Billing functions.

(1) Consistent with the Commission's direction on January 14, 2003, SBC Illinois should commit to address its areas of deficiencies with respect to timeliness of service order completion (SOC) responses (BearingPoint evaluation criteria TVV1-28), accuracy of updates to customer service records or CSRs (BearingPoint evaluation criteria TVV4-27), and accuracy of close out coding on end-to-end trouble faults (BearingPoint evaluation criteria TVV7-14) within the context of this proceeding. This Commission's positive Section 271 recommendation to the FCC should be contingent upon a commitment from the company that it will address these three operational deficiencies by July 2003 and that an independent third party provides verification that these deficiencies have been addressed by November 2003.

(2) Consistent with the Commission's directive on January 14, 2003, SBC Illinois should address its areas of deficiency with respect to its order functionality (BearingPoint evaluation criteria TVV1-4), timeliness of firm order confirmations (FOCs) (BearingPoint evaluation criteria TVV1-26) and its internal bill accuracy controls (BearingPoint evaluation criteria PPR13-4). SBC Illinois should submit BearingPoint's verification that

these deficiencies have been addressed in its rebuttal filing on March 3, 2003. If these three evaluation criteria have not been determined to be “Satisfied” prior to the company’s rebuttal filing on March 3, 2003, then the Commission should make its positive Section 271 recommendation contingent upon a commitment from SBC Illinois that it will address these deficiencies and have them verified by an independent third party no later than August 2003.

- (3) SBC Illinois should respond with its intention to rectify these 6 operational deficiencies and the progress of any undergoing remedial actions regarding these deficiencies in its rebuttal filing currently scheduled for March 3, 2003.

Accuracy and Validity of SBC Illinois’ Performance Measurement Data

136. SBC Illinois’ performance measurement data is neither accurate nor reliable and should not be used as evidence of SBC Illinois’ compliance with the Section 271 14-point checklist. Nor should this Commission rely upon, SBC Illinois’ performance measurement data, which is the input to SBC Illinois’ performance remedy plan (anti-backsliding plan), to demonstrate or ensure future compliance by the company.

- (1) Staff recommends the Commission not provide a positive Section 271 recommendation to the FCC prior to successful completion of the BearingPoint Performance Metrics review.

- (2) If this Commission determines it will provide a positive Section 271 recommendation to the FCC prior to the conclusion of the BearingPoint Performance Metrics review, then the Commission should make its approval contingent upon a commitment from SBC Illinois that it will address all deficiencies raised by BearingPoint in the metrics review and commit to successfully conclude the BearingPoint metrics review no later than November 2003.
- (3) The Commission should condition any positive Section 271 recommendation to the FCC upon SBC Illinois' commitment to conduct a yearly audit of its performance measurement data, data collection and processing controls to demonstrate and prove that the performance measurement data remains reliable over time. The Commission should approve the auditor and audit test plan for the annual audits committed to by the company.

SBC Illinois Performance Measurement Results (3 months)

137. The three months of performance measurement data submitted by the company in support of checklist (ii) does not demonstrate that with respect to the ordering performance measures SBC Illinois is providing non-discriminatory service to the CLECS.

- (1) SBC Illinois should be required to correct the deficiencies associated with the ordering performance measures that apply to check list item (ii) prior to receiving a positive Section 271 recommendation from this

Commission. If the Commission determines to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key order performance measures applicable to checklist (ii), then the company should be required to address its deficiency with these measurements per the timeframe specified in the Staff affidavit of Samuel S. McClerren. Staff Ex. 29.0.